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Paper No. 6

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In re Application of
Crossland, et al.
Application No. 10/084,652
Filed: February 28, 2002
Docket No.: 124-930
For: SPACERS FOR CELLS HAVING
SPACED OPPOSED SUBSTRATES

COPY MAILED

SEP 12 2002

OFFICE OF PETITIONS

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed July 31, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed February 28, 2002 without an executed oath or declaration and naming Timothy D. Wilkinson, William A. Crossland and Tat C.B. Yu as joint inventors. Accordingly, on April 16, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring filing fees, an executed oath or declaration, and a surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 USC 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition lacks requirement (1) stated above. Petitioner has failed to establish that the inventor cannot be reached or located to execute the declaration. Petitioner alleges that the inventor cannot be found and has included the declaration of Philip Davies. While the declaration indicates that the application papers were mailed to the inventor at the inventor's last known address, the declaration fails to indicate what efforts have been made to locate the non-signing inventor.

Where inability to locate a non-signing inventor is alleged, diligent effort to locate the non-signing inventor must be undertaken. Petitioner is required to undertake additional effort to locate the non-signing inventor and provide the non-signing

inventor with a complete copy of the patent application (specification, claims, drawings, and oath or declaration). Any renewed petition should be accompanied by detailed supporting evidence in the form of a declaration or affidavit by one having first hand knowledge of the information contained therein of attempts to locate the non-signing inventor. Petitioner may wish to consult employee records, telephone directories, the internet, national registries, etc., in effort to locate the non-signing inventor.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
 Box DAC
 Washington, DC 20231

By FAX: (703) 308-6916
 Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
 2201 S. Clark Place
 Arlington, VA

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

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